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Counsel for Plaintiff David J. Moscato and the Putative Class

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

DAVID J. MOSCATO, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

COMERICA BANK, CONDUENT STATE &
LOCAL SOLUTIONS, INC., and CONDUENT
BUSINESS SERVICES, LLC,

Defendants.

NO. 2:23-cv-00993-JAD-DJA

**STIPULATED MOTION TO AMEND
DISCOVERY PLAN (ECF NO. 36)
(FIRST REQUEST)**

I. STIPULATION

The parties respectfully stipulate to, and jointly request the Court enter, the proposed
Order below amending the current discovery plan and scheduling order (ECF No. 36).

1. Federal Rule of Civil Procedure 16(b) provides that a district court's scheduling
order may be modified upon a showing of "good cause." Fed. R. Civ. P. 16(b)(4); *see also*

1 *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002). Good cause exists to
2 modify the schedule because the parties need additional to complete discovery before Plaintiff
3 moves for class certification.

4 2. This is the parties' first request for an extension of the case schedule.

5 3. The parties have worked diligently and cooperatively on discovery matters. The
6 parties have completed significant written discovery but believe that they will need additional
7 time to complete discovery, including depositions and expert work before class briefing class
8 certification. They request a three-month extension of the current expert, discovery, and class
9 certification deadlines.

10 4. Specifically, Plaintiff has served two sets of written discovery on Defendant
11 Conduent State & Local Services ("Conduent"), and Conduent has served its first set of written
12 discovery requests on Plaintiff. Conduent has begun producing documents responsive to
13 Plaintiff's requests and the parties are conferring in an effort to resolve disagreements about the
14 scope of Conduent's production. Plaintiff cannot take efficient depositions until those issues are
15 resolved and Conduent's production of both policy documents and data relating to cardholders
16 who Plaintiff maintains may be members of the proposed class is complete. Plaintiff also
17 anticipates retaining an expert to analyze Conduent's data to identify potential class members.

18 5. In addition, the current plan sets a deadline for dispositive motions shortly after
19 the due date for Plaintiff's motion for class certification, which creates potential one-way
20 intervention problems. *See Schwarzschild v. Tse*, 69 F.3d 293 (9th Cir. 1995). Under the existing
21 schedule, if any class is certified, Plaintiff will not have sufficient time to provide notice and an
22 opportunity for exclusion to the members of the certified class before dispositive motions are
23 due. The result would be to effectively preclude Plaintiff from seeking summary judgment in the
24 event a class is certified and preclude Conduent from obtaining a summary judgment ruling
25 binding on absent class members. Accordingly, the parties request that dispositive motion
26 deadline be extended by six months to allow time for notice in the event a class is certified.

For these reasons, the parties have shown good cause for the Court to amend the case schedule as follows:

Event	Current Deadline	Proposed Deadline
Expert disclosures	May 28, 2024	August 28, 2024
Rebuttal expert disclosures	June 25, 2024	September 25, 2024
Discovery cutoff	July 25, 2024	October 25, 2024
Class certification motion	August 25, 2024	November 22, 2024
Dispositive motions	September 23, 2024	March 21, 2025
Joint pretrial order	October 23, 2024	April 21, 2025

STIPULATED TO AND DATED this 2nd day of May, 2024.

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IT IS SO ORDERED:



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE

DATED: May 3, 2024

CERTIFICATE OF SERVICE

I, Blythe H. Chandler, hereby certify that on May 2, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all registered CM/ECF users:

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Attorneys for Defendants

DATED this 2nd day of May, 2024.

By: /s/ Blythe H. Chandler

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